

ESTTA Tracking number: **ESTTA186258**

Filing date: **01/14/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Buy Buy Baby, Inc.
Granted to Date of previous extension	01/13/2008
Address	895 East Gate Boulevard Garden City, NY 11530 UNITED STATES
Attorney information	Simor L. Moskowitz JACOBSON HOLMAN PLLC 400 7th Street, NW6th Floor Washington, DC 20004 UNITED STATES trademark@jhip.com,smoskowitz@jhip.com Phone:202.638.6666

Applicant Information

Application No	77016578	Publication date	07/17/2007
Opposition Filing Date	01/14/2008	Opposition Period Ends	01/13/2008
Applicants	Razick, Nazima H. 7556 Great Swan Court Alexandria, VA 22306 UNITED STATES Masihuddin, Syed 710 Spring Farm Road Lake Villa, IL 60046 UNITED STATES		

Goods/Services Affected by Opposition

Class 035.

All goods and services in the class are opposed, namely: retail store services featuring baby diapers, formula, food items, clothing, toys, electronic gadgets, and other related baby products at airports

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2171479	Application Date	09/27/1995
Registration Date	07/07/1998	Foreign Priority	NONE

		Date	
Word Mark	BUY BUY BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1996/05/15 First Use In Commerce: 1996/05/00 retail stores featuring baby furniture, clothes, accessories and supplies		

U.S. Registration No.	2517613	Application Date	09/27/1995
Registration Date	12/11/2001	Foreign Priority Date	NONE
Word Mark	BUY BUY BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 1996/05/15 First Use In Commerce: 1996/05/15 baby furniture and related accessories, namely, mattresses Class 025. First use: First Use: 1997/06/01 First Use In Commerce: 1997/06/01 baby clothes, namely, shirts, T-shirts, pants, tops, bottoms, overalls, coveralls, jackets, hats, bathing suits and matching tops, socks, booties, shoes, creepers, crawlers		

Attachments	notice of opp and attachments.pdf (17 pages)(1290949 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Simor L. Moskowitz/
Name	Simor L. Moskowitz
Date	01/14/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Buy Buy Baby, Inc.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
Syed Masihuddin)	
and)	
Nazima H. Razick)	
)	
Applicants.)	

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Application Serial No. 77/016,578, in the name of Syed Masihuddin and Nazima H. Razick ("Applicants"), which was published for opposition in the Trademark Official Gazette of July 17, 2007, Vol. 1320, No.3 at page TM 1161, for the mark FLY BUY BABY, Opposer believes it will be damaged by registration of said alleged mark, and hereby opposes same.

The grounds for opposition are as follows:

i) Opposer, Buy Buy Baby, Inc. ("Opposer") is a Delaware corporation, located and doing business at 895 East Gate Boulevard, Garden City, NY 11530.

ii) Opposer operates a chain of retail stores, as well as an online retail store, featuring baby furniture, clothes, accessories, and supplies, in commerce, under the service mark BUY BUY BABY ("Opposer's Mark").

iii) Opposer is the owner of U.S. Service Mark Reg. No. 2,171,479, which issued July 7, 1998, for "retail stores featuring baby furniture, clothes, accessories and

supplies"; as well as U.S. Trademark Reg. No. 2517613 issued December 11, 2001, for "baby furniture and related accessories, namely mattresses" in Class 20, and "baby clothes, namely, shirts, T-shirts, pants, tops, bottoms, overalls, coveralls, jackets, hats, bathing suits, and matching tops, socks, booties, shoes, creepers, crawlers" in Class 25. Copies of these registrations, in the form of current print-outs from the electronic database of the Trademark Office records showing current status and title, are attached hereto as Exhibits 1 and 2 pursuant to 37 CFR Section 2.122(d). These registrations are incontestable; and are therefore conclusive evidence of Opposer's exclusive right to use its BUY BUY BABY mark in commerce, of Opposer's ownership of the registrations, and of the validity of the registrations, pursuant to 15 U.S.C. §§1065 and 1115(b).

4. Commencing long before the October 19, 2006 filing date of the opposed application, Serial No. 77/016,578, Opposer has continuously sold, rendered, advertised and promoted its products and services in connection with Opposer's Mark in the United States.

5. Since the initial use of Opposer's Mark, Opposer has made a substantial investment in such use. As a result, Opposer's customers, and the relevant trade and public, have come to know and recognize Opposer's Mark and to associate same with Opposer.

6. Upon information and belief, notwithstanding Opposer's prior reputation in its BUY BUY BABY mark, on October 19, 2006, Applicants filed an application for registration of the mark FLY BUY BABY, for "retail store services featuring baby diapers, formula, food items, clothing, toys, electronic gadgets, and other related baby products at

airports" in Int'l. Class 35. This application was assigned Serial No. 77/016,578, and was published for opposition on July 17, 2007; the opposition period has been extended to and including January 13, 2008.

7. Upon information and belief, Applicant's adoption of the mark FLY BUY BABY was with knowledge and notice of Opposer's Mark and the established reputation in connection therewith.

8. The mark sought to be registered by Applicant -- FLY BUY BABY -- is substantially identical to, phonetically equivalent, confusingly similar to, and a colorable imitation of Opposer's Mark BUY BUY BABY, and is proposed to be used in connection with the same or similar services as those rendered and/or related goods sold by Opposer under Opposer's Mark. Applicant's published FLY BUY BABY mark so resembles Opposer's Mark as to be likely, when used in connection with the services of Applicant, to cause confusion or mistake or to deceive actual and/or prospective purchasers, the trade, and consumers, thereby resulting in damage and detriment to Opposer, Opposer's Mark, and reputation.

9. Upon information and belief, Opposer's actual and/or prospective customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's services marketed, promoted, advertised and/or sold under the FLY BUY BABY mark sought to be registered by Applicant, and misled into believing that such services are sold by, emanate from, affiliated with, sponsored by, or in some way, directly or indirectly, are associated with Opposer and/or its BUY BUY BABY mark, to the damage and detriment of Opposer and its reputation.

10. Opposer has been and, upon information and belief, will be, damaged by the registration by Applicant of the opposed FLY BUY BABY mark, as set forth in the opposed application therefor, Ser. No. 77/016,578, in that said mark is substantially similar to, a colorable imitation of, and substantially identical to, Opposer's Mark, and is likely to cause confusion therewith.

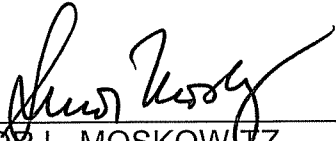
11. By virtue of the prior use of Opposer's Mark, if Applicant is granted the registration opposed herein and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Opposer will continue to be subjected to great and irreparable damage, and Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946.

WHEREFORE, Opposer, Buy Buy Baby, Inc. believes and alleges that it will be damaged by registration of the Applicant's mark as aforesaid, and therefore Opposer prays that:

- (a) judgment in the present Opposition be entered in favor of Opposer;
- (b) registration on the application of Syed Masihuddin and Nazima H. Razick, Serial No. 77/016,578, be rejected and refused; and
- (c) the present Opposition be sustained in favor of Opposer.

The filing fee for this opposition in the amount of \$300.00 is enclosed herewith in the form of counsel's Credit Card Charge Form. Should this form become detached, or the amount be insufficient, please charge Deposit Account No. 06-1358.

BUY BUY BABY, INC.

By: 
SIMOR L. MOSKOWITZ
Jacobson Holman, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004-2201
(202) 638-6666
ATTORNEYS FOR OPPOSER

Dated: January 14, 2008

Atty. Dkt. No.: I-5703

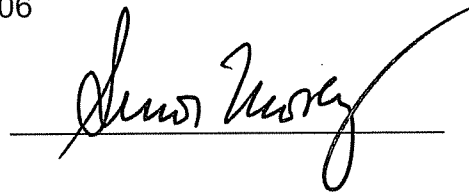
Attachments: Exhibits 1-2

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition, together with attached exhibits, was served this 14th day of January, 2008, via first class mail, postage prepaid upon Applicants, as follows:

Syed Masihuddin
710 Spring Farm Road
Lake Villa, IL 60046

Nazima H. Razick
7556 Great Swan Court
Alexandria, VA 22306

A handwritten signature in black ink, appearing to read "Syed Masihuddin", is written over a horizontal line.

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,171,479

United States Patent and Trademark Office

Registered July 7, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

BUY BUY BABY

BUY BUY BABY, INC. (DELAWARE CORPORATION)
3 CHINABERRY COURT
GAITHERSBURG, MD 20878

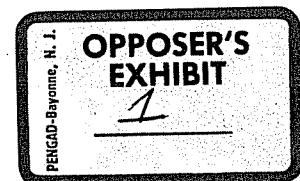
FOR: RETAIL STORES FEATURING BABY
FURNITURE, CLOTHES, ACCESSORIES AND
SUPPLIES, IN CLASS 42 (U.S. CLS. 100 AND
101).

FIRST USE 5-15-1996; IN COMMERCE
5-0-1996.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BABY", APART FROM THE
MARK AS SHOWN.

SER. NO. 75-976,624, FILED 9-27-1995.

KEVIN PESKA, EXAMINING ATTORNEY





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Typed Drawing

Word Mark BUY BUY BABY
Goods and Services IC 042. US 100 101. G & S: retail stores featuring baby furniture, clothes, accessories and supplies. FIRST USE: 19960515. FIRST USE IN COMMERCE: 19960500
Mark Drawing Code (1) TYPED DRAWING
Serial Number 75976624
Filing Date September 27, 1995
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition April 14, 1998
Registration Number 2171479
Registration Date July 7, 1998
Owner (REGISTRANT) BUY BUY BABY, INC. CORPORATION DELAWARE 895 EAST GATE BLVD. GARDEN CITY NEW YORK 11530
Attorney of Record SIMOR L. MOSKOWITZ
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BABY" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070919.
Renewal 1ST RENEWAL 20070919
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Serial Number: 75976624 Assignment Information Trademark Document Retrieval

Registration Number: 2171479

Mark (words only): BUY BUY BABY

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2007-09-19

Filing Date: 1995-09-27

Transformed into a National Application: No

Registration Date: 1998-07-07

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-09-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BUY BUY BABY, INC.

Address:

BUY BUY BABY, INC.
895 EAST GATE BLVD.
GARDEN CITY, NY 11530
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 042

Class Status: Active

retail stores featuring baby furniture, clothes, accessories and supplies

Basis: 1(a)

First Use Date: 1996-05-15

First Use in Commerce Date: 1996-05-00

http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75976624

ADDITIONAL INFORMATION

Disclaimer: "BABY"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-09-19 - First renewal 10 year

2007-09-19 - Section 8 (10-year) accepted/ Section 9 granted

2007-09-19 - Assigned To Paralegal

2007-09-05 - Combined Section 8 (10-year)/Section 9 filed

2007-09-05 - TEAS Section 8 & 9 Received

2007-08-15 - Case File In TICRS

2004-02-03 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-12-02 - Section 8 (6-year) and Section 15 Filed

1998-07-07 - Registered - Principal Register

1998-04-14 - Published for opposition

1998-03-13 - Notice of publication

1998-01-05 - ITU claim deleted

1997-12-24 - Approved for Pub - Principal Register (Initial exam)

1997-11-26 - Assigned To Examiner

1997-10-31 - Divisional processing completed

1997-01-21 - Non-final action mailed

1996-10-11 - Communication received from applicant

1996-04-01 - Non-final action mailed

1996-03-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

SIMOR L. MOSKOWITZ

Correspondent

SIMOR L. MOSKOWITZ
JACOBSON HOLMAN PLLC
SUITE 600
400 SEVENTH STREET, N.W.
WASHINGTON DC 20004
Phone Number: 202-638-6666
Fax Number: 202-393-5350

Int. Cls.: 20 and 25

Prior U.S. Cls.: 2, 13, 22, 25, 32, 39, and 50

United States Patent and Trademark Office

Reg. No. 2,517,613

Registered Dec. 11, 2001

**TRADEMARK
PRINCIPAL REGISTER**

BUY BUY BABY

BUY BUY BABY, INC. (DELAWARE CORPORATION)
3 CHINABERRY COURT
GAITHERSBURG, MD 20878

FOR: BABY FURNITURE AND RELATED ACCESSORIES, NAMELY, MATTRESSES, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 5-15-1996; IN COMMERCE 5-15-1996.

FOR: BABY CLOTHES, NAMELY, SHIRTS, T-SHIRTS, PANTS, TOPS, BOTTOMS, OVERALLS, COVERALLS, JACKETS, HATS, BATHING SUITS

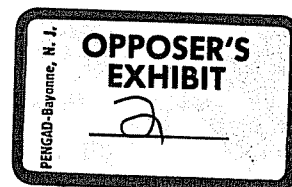
AND MATCHING TOPS, SOCKS, BOOTIES, SHOES, CREEPERS, CRAWLERS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 6-1-1997; IN COMMERCE 6-1-1997.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BABY", APART FROM THE MARK AS SHOWN.

SN 74-736,684, FILED 9-27-1995.

REBECCA GILBERT, EXAMINING ATTORNEY





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Typed Drawing**Word Mark****BUY BUY BABY****Goods and Services**

IC 020. US 002 013 022 025 032 050. G & S: baby furniture and related accessories, namely, mattresses. FIRST USE: 19960515. FIRST USE IN COMMERCE: 19960515

IC 025. US 022 039. G & S: baby clothes, namely, shirts, T-shirts, pants, tops, bottoms, overalls, coveralls, jackets, hats, bathing suits and matching tops, socks, booties, shoes, creepers, crawlers. FIRST USE: 19970601. FIRST USE IN COMMERCE: 19970601

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

74736684

Filing Date

September 27, 1995

Current Filing Basis

1A

Original Filing Basis

1B

Published for Opposition

March 3, 1998

Registration Number

2517613

Registration Date

December 11, 2001

Owner

(REGISTRANT) BUY BUY BABY, INC. CORPORATION DELAWARE 895 EAST GATE BLVD. GARDEN CITY NEW YORK 11566

Attorney of Record

SIMOR L. MOSKOWITZ

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BABY" APART FROM THE MARK AS SHOWN

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

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Serial Number: 74736684 Assignment Information Trademark Document Retrieval

Registration Number: 2517613

Mark (words only): BUY BUY BABY

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-09-04

Filing Date: 1995-09-27

Transformed into a National Application: No

Registration Date: 2001-12-11

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-09-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BUY BUY BABY, INC.

Address:

BUY BUY BABY, INC.
895 EAST GATE BLVD.
GARDEN CITY, NY 11566
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 020

Class Status: Active

baby furniture and related accessories, namely, mattresses

Basis: 1(a)

First Use Date: 1996-05-15

First Use in Commerce Date: 1996-05-15

International Class: 025

Class Status: Active

baby clothes, namely, shirts, T-shirts, pants, tops, bottoms, overalls, coveralls, jackets, hats, bathing suits and matching tops, socks, booties, shoes, creepers, crawlers

Basis: 1(a)

First Use Date: 1997-06-01

First Use in Commerce Date: 1997-06-01

ADDITIONAL INFORMATION

Disclaimer: "BABY"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-09-04 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-08-17 - Assigned To Paralegal

2007-07-30 - Section 8 (6-year) and Section 15 Filed

2007-07-30 - Section 8 (6-year) and Section 15 Filed

2007-07-30 - TEAS Section 8 & 15 Received

2007-01-04 - Case File In TICRS

2001-12-11 - Registered - Principal Register

2001-07-30 - Allowed for Registration - Principal Register (SOU accepted)

2001-07-27 - Assigned To Examiner

2001-07-22 - Statement of use processing complete

2001-01-26 - Amendment to Use filed

2001-01-28 - Extension 5 granted

2000-11-26 - Extension 5 filed

2000-07-24 - Extension 4 granted

2000-05-18 - Extension 4 filed

2000-01-02 - Extension 3 granted
1999-11-19 - Extension 3 filed
1999-06-18 - Extension 2 granted
1999-05-21 - Extension 2 filed
1998-12-17 - Extension 1 granted
1998-11-23 - Extension 1 filed
1998-05-26 - Notice of allowance - mailed
1998-03-03 - Published for opposition
1998-01-30 - Notice of publication
1997-12-24 - Approved for Pub - Principal Register (Initial exam)
1997-12-23 - ITU claim added
1997-12-23 - ITU claim deleted
1997-11-26 - Assigned To Examiner
1997-10-31 - Divisional processing completed
1997-07-21 - Divisional request received
1997-01-21 - Non-final action mailed
1996-10-11 - Communication received from applicant
1996-04-01 - Non-final action mailed
1996-03-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

SIMOR L. MOSKOWITZ

Correspondent

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JACOBSON HOLMAN PLLC
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400 Seventh Street, N.W.
Washington DC 20004
Phone Number: 202-638-6666
Fax Number: 202-393-5350